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8 Attorneys for Defendants

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 OAKLAND DIVISION

12 UNITED STATES OF AMERICA,) CASE NO. 22-CR-329 CRB
13 Plaintiff,)
14 v.) **STIPULATION AND [PROPOSED] ORDER RE:**
15 DAVID TAI LEUNG,) **RESTITUTION**
16 Defendant.)
17 _____)

18 The United States and defendant DAVID TAI LEUNG (“Defendant”), by and through their
19 counsel of record, hereby stipulate as follows:

20 1. On February 28, 2024, Defendant pleaded guilty to three counts of wire fraud, in
21 violation of 18 U.S.C. § 1343.

22 2. At the sentencing hearing on June 7, 2024 the Court ordered Defendant to serve
23 months in custody, plus years of supervised release.

24 3. Restitution is mandatory to victims of fraud pursuant to 18 U.S.C. §§ 3663A (MVRA).
25 Specifically, the law provides that a court “shall order . . . restitution” and that this restitution order
26 “shall order restitution to each victim” through the appropriate court mechanism “in the full amount of
27 the victim’s losses as determined by the court and without consideration of the economic circumstances

1 of the defendant.” 18 U.S.C. § 3664(f)(1)(A).

2 4. To conserve judicial resources, to bring about a speedy resolution of this matter, and to
3 avoid further litigation, the parties agree and jointly request that the Court, upon approval of this
4 Stipulation, may enter a Judgment to order restitution to the individuals and/or entities in the amounts as
5 set forth below:

6 a. \$247,144.06 in total to East West Bank.

7 b. \$3,112,557.22 in total to the Small Business Administration (SBA).

8 The parties stipulate that the above individuals and/or entities qualify as “victims” under the statutes
9 cited in paragraph 3, *supra*. The United States shall furnish the Clerk’s Office with physical address
10 information for each individual and/or entity.

11 5. Consistent with 18 U.S.C. § 3664(i), victim East West Bank shall receive full payment of
12 restitution before the SBA receives any payment of restitution.

13 6. The parties agree that the full amount of special assessment, fine, and restitution is due in
14 accordance with 18 U.S.C. § 3572(d) and in accordance with the parties’ plea agreement.

15 7. The parties further agree to the following payment schedule:

16 a. During imprisonment, payment of criminal monetary penalties is due at the rate of not
17 less than \$25 per quarter and payment shall be through the Bureau of Prisons’ Inmate
18 Financial Responsibility Program.

19 b. Once Defendant is on supervised release, Defendant shall pay restitution in monthly
20 payments of not less than \$250 or at least 10% of earnings, whichever is greater, to
21 commence no later than 60 days from placement on supervision.

22 8. Notwithstanding any payment schedule set by the court, the United States Attorney’s
23 Office may pursue collection through all available means in accordance with 18 U.S.C. §§ 3613 and
24 3664(m). The restitution payments shall be made to the Clerk of U.S. District Court, Attention: Finance
25 Unit, 450 Golden Gate Ave., Box 36060, San Francisco, CA 94102.

26 9. For the reasons stated at the sentencing hearing, Defendant contends he does not have the
27 ability to pay interest and requests that the Court waive the requirement for interest. *See* 18 U.S.C.
28 § 3612(f)(3). The government does not have additional information on the Defendant’s ability to pay,

1 takes no position on Defendant's request, and defers the issue to the Court.

2 10. The parties request that the Court order restitution payable to the individuals and/or
3 entities identified and the terms outlined above.

4 SO STIPULATED.

5
6 DATED: June 7, 2024

7 ISMAIL J. RAMSEY
United States Attorney

8 /s/
9
10 IVANA DJAK
11 Assistant United States Attorney

12 DATED: June 7, 2024

13 /s/
14 CANDICE L. FIELDS
15 Attorney for Defendant DAVID TAI LEUNG
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[PROPOSED] ORDER

DAVID TAI LEUNG will pay a total of \$3,359,701.28 in restitution, in the amounts specified to the individuals and/or entities specified as follows:

- a. \$247,144.06 in total to East West Bank.
- b. \$3,112,557.22 in total to the Small Business Administration (SBA).

The above individuals/entities qualify as victims pursuant to 18 U.S.C. §§ 3663A.

7 The full amount of special assessment, fine, and restitution is due in accordance with 18 U.S.C.
8 § 3572(d). During imprisonment, payment of criminal monetary penalties is due at the rate of not less
9 than \$25 per quarter and payment shall be through the Bureau of Prisons' Inmate Financial
10 Responsibility Program. Once Defendant is on supervised release, Defendant shall pay restitution in
11 monthly payments of not less than \$250 or at least 10% of earnings, whichever is greater, to commence
12 no later than 60 days from placement on supervision.

13 Notwithstanding any payment schedule set by the court, the United States Attorney's Office may
14 pursue collection through all available means in accordance with 18 U.S.C. §§ 3613 and 3664(m). The
15 criminal monetary penalty payments shall be made to the Clerk of U.S. District Court, Attention:
16 Finance Unit, 450 Golden Gate Ave., Box 36060, San Francisco, CA 94102.

17 [FOR THE COURT'S JUDGMENT: The Court finds that Defendant does not have the ability
18 to pay interest and orders that interest be waived. *See* 18 U.S.C. § 3612(f)(3).]

IT IS SO ORDERED.

DATE: June 7, 2024


HON. CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE